



HM Treasury

Public service pensions: Changes to transitional arrangements to the 2015 schemes

Equality Impact Assessment

July 2020

Public Service Pensions: changes to
transitional arrangements to the
2015 schemes
Central equality impact assessment



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Chapter 1

Introduction

Equality impact analysis

Purpose

- 1.1 This analysis has been undertaken by HM Treasury to inform the proposals currently subject to consultation to remedy the unlawful discrimination in the main public service pension schemes identified by the Court of Appeal,¹ and the proposals regarding future public service pension provision after 31 March 2022. It should be read alongside 'Public Service Pensions: changes to transitional arrangements to the 2015 schemes' (subsequently referred to as: 'the consultation document'). This is published alongside this document.
- 1.2 When formulating policy proposals, the government is required to comply with the Public Sector Equality Duty² in the Equality Act 2010.³ The duty requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities. This document assesses the impacts of the government's proposals, by reference to the protected characteristics identified in the Equality Act 2010 of: sex, age, disability, race, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation and marital status/civil partnership.
- 1.3 The consultation document covers two policies, both of which relate to public service pensions:
 - First, the document sets out proposals for the position between 1 April 2015 and 31 March 2022 – i.e. how to remove the unlawful discrimination identified by the Court of Appeal ('retrospective policy'). The government is seeking views on two options. Under either option eligible members of relevant pension schemes would be given a choice: whether they wish to receive benefits from their relevant legacy or reformed public service pension schemes for the period 1 April 2015 to 31 March 2022.

¹ In *McCloud v Lord Chancellor; Sargent v London Fire & Emergency Planning Authority* [2019] ICR 1489.

² https://www.equalityhumanrights.com/sites/default/files/meeting_the_duty_in_policy_and_decision-making.pdf

³ <https://www.gov.uk/guidance/equality-act-2010-guidance>

- Secondly, the policy from 1 April 2022 onwards. The government is seeking views on a proposal to place all active members of relevant pension schemes into the reformed schemes from 1 April 2022.

Full details of these proposals are set out in the consultation document.

Approach

- 1.4 Chapter 2 of this equality impact assessment considers the impacts on protected characteristic of both the retrospective proposals; it covers both options under consideration in turn: immediate choice (IC) and the deferred choice underpin (DCU). It also explores the impact on protected characteristics of future pension provision. Annex A describes the data used for this analysis in more detail.
- 1.5 The analysis in Chapter 2 is based on the data contained in Annex A and B. It has first been used to identify both potential and actual differential impacts by reference to protected characteristics. The impacts identified through this analysis are discussed for each of the proposed policies in turn in Chapter 2.
- 1.6 The data has been analysed to test whether the potential and actual impacts identified would be a result of the proposals under consultation, or other external factors, such as existing features of pension scheme design. Where it seems likely that a potential impact would be due to external factors, the interaction of those external factors with the proposals under consultation have been considered from an equality perspective.
- 1.7 Finally, consideration has been given as to whether alterations to the policies are necessary, proportionate and appropriate, considering the identified equality impacts.
- 1.8 This document sets out consideration of the equality impact of the proposals contained within the relevant consultation document. Consideration of equality impacts will continue – including through to decision making and implementation via legislation. The ongoing PSED applies to all affected schemes.
- 1.9 The government welcomes input from stakeholders – particularly whether there are any further potential impacts that have not been considered in this document. Views can be submitted by responding to questions 1 and 2 on page 12 of the consultation document.

Data

- 1.10 This equality impact analysis has made use of a wide variety of available data. Details are in Table 8 of Annex A and in Annex B. This available data has been valuable in assessing potential equality impacts of the proposals under consultation.
- 1.11 Public service pension schemes hold data on sex and age - the key characteristics for pension calculations. They do not hold complete or up to date data on the other protected characteristics under the Equality Act 2010. This data is therefore not readily available for the Government Actuary's Department (GAD) to summarise.

- 1.12 However, data is available on the characteristics of the public sector as a whole⁴ which is a good proxy for the characteristics of members of public service pension schemes:
- 89% of public sector employees were members of a workplace pension scheme in 2019;⁵ and the aggregated data available from schemes on age and sex is consistent with the wider public sector on age and sex (see Tables 1 and 3 at Annex A).

Background

Removing discrimination arising from transitional protection

- 1.13 In April 2015 public service pension schemes were reformed; the cost of the legacy schemes had significantly increased over the previous decades, with most of those costs falling to the taxpayer. The introduction of new schemes, with career average design, increased Normal Pension Ages and the introduction of a cost control mechanism, were important steps to protect against unsustainable increases in cost. They also provided greater benefits to some lower paid workers. Even with these reforms, public service pensions continue to be among the very best available, rewarding those who dedicate their working lives to public service.
- 1.14 As part of the 2015 reforms, those within 10 years of retirement remained in their legacy pension schemes. This transitional protection was provided following negotiations with member representatives and was intended to protect and give certainty to people who were closest to retirement. In December 2018 the Court of Appeal found that this part of the reforms unlawfully discriminated against younger members of the judicial and firefighters' pension schemes in particular, as transitional protection was only offered to older scheme members. The Courts also made findings as to equal pay and indirect age discrimination. The Courts required that this unlawful discrimination be remedied by the government. The government has set out its proposals for doing so.
- 1.15 The proposals will apply to all members who were in service on or before 31 March 2012 and on or after 1 April 2015, including those with a qualifying break in service of less than 5 years, across all affected public service schemes.⁶ This is irrespective of whether they have submitted a legal claim or not, and of whether they are currently an active, deferred or pensioner member.
- 1.16 Depending on a person's circumstances, many scheme members are likely to be better off in the reformed schemes rather than the legacy schemes. The government believes it is therefore not fair to simply move everyone back

⁴Labour Force Survey (LFS) 2020 – Quarter 1

⁵<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/workplacepensions/bulletins/annualsurveyofhoursandearnings/pensiontables/2019provisionaland2018finalresults>

⁶This includes the schemes covering the NHS in England and Wales, NHS Scotland, Teachers in England and Wales, Teachers in Scotland, Fire in England, Fire in Wales, Fire in Scotland, Police in England and Wales, Police in Scotland, Civil Service in Great Britain, UK Armed Forces, and the Civil Service (and Others) scheme. Changes to the Judicial pension schemes, the Local Government Pension Scheme in England and Wales, and the equivalent scheme in Scotland, as well as the public service pension schemes in Northern Ireland will be consulted on separately.

into the legacy schemes, even though this would be sufficient to remove the unlawful discrimination. The government therefore proposes to provide members with the option to choose between the legacy or reformed scheme benefits in respect of their period of service during the period between 1 April 2015 and 31 March 2022. The consultation seeks views on that proposal and especially on which of the two possible approaches should be taken to making this choice, and how each of these approaches work. The two possible approaches to how this choice might work are:

1. an immediate choice; or,
2. a deferred choice underpin (DCU).

- 1.17 Both approaches would give members a choice whether to receive benefits from the legacy or reformed pension schemes in respect of their period of service during the period between 1 April 2015 and 31 March 2022. But they differ in the point in time at which the decision is made by the member.
- 1.18 Under the immediate choice exercise, members would make this decision in the years after the point of implementation in 2022. For many members, this will be some years prior to retirement, and at a time when there is still some uncertainty over the precise benefits that would accrue to them in the alternative schemes.
- 1.19 Under the DCU option, this decision would be deferred until the point at which a member retires (or when they take their pension benefits). Until that deferred choice is made, all members would be deemed to have accrued benefits in the legacy scheme, rather than the reformed scheme, for the period until 31 March 2022.
- 1.20 Under either approach, those who have already retired and/or received a pension award will be invited to make their choice as soon as practicable after the changes are implemented. The position they choose would be applied retrospectively back to the date the award was made.
- 1.21 Both of these approaches would remove the discrimination that the court has identified. The details of how both options might work are set out in the consultation document. The impact of the different options will differ between different members. Through the consultation, the government is seeking to explore and understand those differing impacts, potential mitigations, and other relevant issues, in order to ensure that the final policy solution has taken account of all these matters. More details are set out in the consultation, through which the government is seeking stakeholders' views on the viability and desirability of both approaches.

Future Pension Provision

- 1.22 The government is also seeking views on provision for public sector pension benefits after 31 March 2022 in this consultation.
- 1.23 The move in 2015 from (mostly) final salary to career average pension scheme design created a fairer system. Under a career average design, those public servants who see considerable increases in earnings over their career – and particularly towards the end of their career – are no longer likely to be

relatively favoured compared with their colleagues who did not. Instead, the career average pension schemes ensure members accrue their pension at a typically higher annual rate based on their average salary. Although some members were better off in their legacy scheme, others, including some lower paid members, are likely to be better off in the reformed schemes.

- 1.24 The Normal Pension Age in most of the reformed schemes is linked to the State Pension Age.⁷ Increases in life expectancy have led to increases in the cost of pensions of all kinds. Aligning normal pension age with the point at which members receive their State Pension reflects the fact that we are living longer. Nobody is required to work longer if they do not wish to do so, but where pensions are accessed before State Pension Age, they are adjusted to reflect the fact that they are likely to be paid for longer.
- 1.25 The government therefore believes that the reformed schemes initially introduced in 2015 provide an appropriate level of public service pension provision. All Public servants in scope of the consultation will be placed in these pension schemes in respect of employment from 1 April 2022 onwards. Their pension rights and benefits accrued up to 31 March 2022 will be unaffected.

Next steps

- 1.26 This Equality Impact Analysis will be kept under review: where appropriate any new information and any relevant data will be updated as the policy details are finalised post-consultation to ensure that this analysis remains up to date.

⁷ The NPA does not equal the SPA in schemes for members of the Armed Forces, Firefighters and Police pension schemes

Chapter 2

Equality impact overview

General impact: Summary

- 2.1 The proposals set out in the consultation document are intended to remove unlawful discrimination found to exist as a consequence of the transitional protection and tapered protection arrangements of the 2015 pensions reforms. The proposals under consultation will apply equally to all those in scope. On the basis of the evidence currently available, and which has been carefully considered, the government does not consider that the proposals set out in the consultation document will result in unjustifiable differential impacts on individuals with the following protected characteristics: disability, ethnicity, age, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation and marriage/civil partnership.
- 2.2 In developing these proposals, the government has sought to remove the existing discrimination and ensure that no new discrimination arises. There are some ways in which the proposals may impact different groups in different ways – in particular, by age group, and as identified in the original McCloud and Sargeant cases, younger members in some workforces are also more likely to be women and from ethnic minority groups. This is because some workforces have actively sought to improve the diversity of their workforce over the years. This is explained in more detail below.
- 2.3 Similarly, the proposal that all those who continue in service from 1 April 2022 will do so as a member of their respective reformed scheme will apply equally to all. Many of those affected are already members of the reformed schemes, and those who are not will be placed into their respective 2015 scheme from 1 April 2022, regardless of any protected characteristics. From this point on, all members will be in their respective reformed scheme and will therefore be treated consistently.
- 2.4 This chapter discusses each of the policy proposals in turn:
 - a. The scope of the retrospective policy: i.e. which groups it will affect
 - b. The tapered protection policy
 - c. The two options for addressing discrimination:
 - i. Immediate choice
 - ii. Deferred choice underpin
 - d. The impact of moving individuals to the 2015 reformed schemes from 1 April 2022 is discussed.

- 2.5 Throughout this chapter, the conclusions that are set out are reflective of the available data, as discussed in Annex A. The data has limitations; the government welcomes views on alternative data sources, or methods of data collection to support or counter the conclusions set out here.
- 2.6 Following the consultation, evidence will continue to be reviewed as further policy development is conducted.

Equality impact of the policy proposals

Scope of retrospective changes

Overview

- 2.7 The proposals set out in Chapter 2 of the consultation document will only apply to those in service on or before 31 March 2012. This means that those who first joined an affected public service pension scheme after that date will not be affected by any of the proposals and will remain in the reformed schemes. This is explained in the consultation document.
- 2.8 When the 2015 reforms were introduced, in order to be eligible for transitional protection, a member had to (i) be in service on or before 31 March 2012 and on or after 1 April 2015; and, (ii) be within ten years of their Normal Pension Age on 31 March 2012. The Court of Appeal upheld findings that the second of these criteria was discriminatory on the basis of age (directly) and race and sex (indirectly). The intended purpose of the proposals set out in the consultation document is to remove that unlawful discrimination. The proposals are therefore limited only to those who were within scope of that discrimination, i.e. those in service on 31 March 2012.
- 2.9 Those who were in service on or before 31 March 2012, but who left and subsequently re-joined within 5 years will, however, be in scope for any service after 1 April 2015, provided their break in service meets the criteria set out in their scheme's regulations. This is in line with the existing principle that those with a qualifying break in service of less than 5 years should be deemed to have had continuous service. Excluding this group from the scope of the remedy would be counter to this concept and would be likely to particularly exclude women and others, whom the continuous service principle is designed to protect.

Age

- 2.10 The government's aim in bringing forward its proposals is to remove the discrimination that has been identified by the Courts. The difference in treatment that was deemed to be discriminatory only applied to those who were in service on or before 31 March 2012. It is therefore only that group who are in scope of the proposals currently subject to consultation.
- 2.11 Applying the retrospective proposals set out in the consultation document only to those in service on 31 March 2012 is likely to have an age-related impact. Although some people do enter public service at a relatively later age, overall, those who first joined after 31 March 2012, and so are not in scope, are likely to be younger than those who joined before 31 March 2012. In addition, the average age of the workforce has decreased slightly.

In 2012, 27% of the public sector workforce were aged 16-34. This had increased to 29% by 2016.

- 2.12 However, the government considers that any such potential age-related discrimination would be justified. The reasons for this are explored below.
- 2.13 The purpose of the original transitional protection was to protect those members closest to retirement and already in public service, as they had least time to prepare for the changes (although the Courts decided that this did not justify the resulting discrimination).
- 2.14 This rationale never applied to those who joined the schemes in the year commencing 1 April 2012, or in subsequent years, after the Coalition Government's proposals had been made known in November 2011 (There are practical reasons why significant changes to pension arrangements are generally made with effect from a date of 1 April – further details can be found in Chapter 3 of the consultation document). At the time, the proposed reforms were widely publicised and there was significant media coverage. The government believes that anyone entering service after that point would therefore reasonably be expected to have known that they would join or be moved to the reformed schemes. They could not reasonably have expected to remain in, or join, the legacy schemes, and nor were they subject to the unlawful discrimination identified by the Courts because transitional protection was not available to anyone who first joined after 31 March 2012.
- 2.15 Therefore, it would not be appropriate to extend to them the same choice of scheme membership in respect of service between 2012 and 2022 as those already in service at 31 March 2012. To do so would also increase the administrative workload and financial cost associated with these proposals. The government therefore consider it reasonable that the remedy proposals in the consultation only apply to those who were subject to the original discrimination, i.e. in service on 31 March 2012.
- 2.16 The government believes that the reformed schemes introduced in 2015, of which all public service workers who joined since 2012 are already members, is the appropriate level of pension provision for the long-term. In order to re-establish these schemes for the future in a way that does not give rise to unlawful discrimination, the government proposes to place all pre-2012 joiners in their respective reformed schemes and remove transitional protection and tapered protection from all members. The government will bring forward primary legislation to remove the transitional protection and tapered protection provisions of the reformed schemes from 1 April 2022.
- 2.17 For all the reasons explained above, the government considers that any disproportionate impact of these proposals by age-group is justified.

Other protected characteristics

- 2.18 As set out above, in addition to being more likely to be younger, the Courts identified that those joining some relevant workforces after 1 April 2012 were more likely to be women or from ethnic minority groups. In both

2012¹ and 2016, 65% of the overall public service active membership were female. This has remained constant over 4 years, so the overall ratio of females to males joining relevant workforces after 2012 is assumed to be consistent with the ratio in the existing workforce. However, as identified by the Courts, it is likely that in some workforces there has been an increasing proportion of women. It is therefore likely that in some workforces, there will be a higher proportion of women who would benefit if the proposals were extended to post 2012 joiners, even if this isn't the case overall.

- 2.19 The proportions of individuals from ethnic minority groups has increased in the public sector between 2012² and 2020 by 2 percentage points (10 to 12%). This suggests that those joining relevant workforces after 1 April 2012 are also more likely to be from ethnic minority groups.
- 2.20 The proportion of individuals reporting a disability in the public sector has also increased over time, for example in 2013 11%³ of people in the public sector reported a disability (as defined under the Equality Act 2010), compared to 2020 where 16% of the public sector reported a disability. This aligns with trends from individual workforces, for example the proportion of individuals reporting a disability in the civil service is also increasing over time.⁴
- 2.21 For the reasons as set out in 2.13 and 2.14, the government considers that the impacts on these protected groups are justified.

Taper protected members

Overview

- 2.22 Alongside the full transitional protection that the Courts found to be unlawful, most pension schemes also offered tapered protection for individuals between ten and thirteen and a half or fourteen years (depending on scheme) from Normal Pension Age (NPA) as at 31 March 2012.⁵ This allowed affected individuals to stay in their legacy scheme for a period after 2015 before moving to the reformed scheme on a date determined by their age. The government believes that the effect of the McCloud judgment is that this also amounts to unlawful discrimination.
- 2.23 Under the proposals set out in Chapter 2 of the consultation document, members will be asked to choose whether they wish to accrue service in the legacy or reformed schemes during the remedy period. They will not be able to choose a mixture of legacy and reformed scheme benefits. This means that those members who originally had tapered protection will be asked to

¹ <https://www.parliament.uk/documents/impact-assessments/IA12-024.pdf> – Table A.1

² <https://www.parliament.uk/documents/impact-assessments/IA12-024.pdf> – Table A.4

³ Labour Force Survey (LFS) 2013 – Quarter 1

⁴ <https://www.instituteforgovernment.org.uk/explainers/disability-civil-service>

⁵ Details of tapered protection arrangements for members of the Police Pension Scheme, which was based on both age and length of service, can be found in Annex A of the Reform Design Framework
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/117692/reform-design-framework.pdf

choose between legacy and reformed scheme benefits for the whole remedy period.

Age

- 2.24 As set out above, in order to receive tapered protection, members had to be between ten and thirteen and a half or fourteen years from Normal Pension Age on 31 March 2012, depending on the scheme. As set out in Annex B, all those who originally received tapered protection were aged between 35 and 64 in 2016.
- 2.25 The approach set out in the consultation document and summarised above is expected to have a broadly positive impact for these members in that it will address the discrimination identified by the Courts while also allowing a choice of receiving legacy or reformed scheme benefits across the whole remedy period, depending on which is most beneficial. For some individuals, however, tapered protection may have been more advantageous than the choice of receiving either reformed or legacy scheme benefits for the entire remedy period. The effect of the proposals in the consultation document is that those individuals will lose that advantage.
- 2.26 However, any such advantage will have arisen by chance, in the sense that it is not something which the system of tapered protection deliberately set out to produce, and it would have been as a result of a policy that has been identified by the Courts as giving rise to unjustified discrimination. Alternative options have been considered to test whether it would be possible to construct an alternative system of tapered protection that was not age based. However, even if this was possible, any such system would be extremely complex both for members and administrators and would likely involve all members having to make a much more convoluted choice than that required either by the immediate choice exercise or by the deferred choice underpin. Further, since it would, by definition, be a different system, it would not necessarily leave members in the same position as under the original age-based taper in any case. This was not therefore considered to be a viable option.
- 2.27 By 1 April 2022, all members who were offered transitional protection in 2012 will have reached their Normal Pension Age. Table 4 in the Annex shows there were 245,000 tapered members and Graph 1 shows the youngest lies between 35 to 49 years of age. This means 3% of 35 to 49 year olds and 23% of 50 to 64 year olds were eligible for tapered protection, as they would have been within 10 and 13.5 years or 14 years of their NPA from the 1 April 2012.
- 2.28 Those aged 16 to 34 at the time of the reforms did not receive transitional protection. This means that they were either members who were moved to reformed schemes in 2015 or new members of the post-2015 schemes. Those aged 35 to 49 were predominantly 'unprotected' members (i.e. did not have transitional protection) - however a small proportion either received transitional or tapered protection. Just over 50% of those aged 50 to 64 are protected members, the other 50% is evenly split between unprotected and tapered members (25% each). Finally, those aged 65 and older are predominantly protected members, with only 15% unprotected. The 15% of

older workers who are unprotected would have joined their pension scheme after 31 March 2012 or had a relevant disqualifying break in service which is why the proportion of older members who are unprotected is a small proportion.

- 2.29 In Annex B a breakdown of membership by age into protected types is available for each specific scheme. The armed forces for example have no tapered members, because tapered protection was not available in that scheme.
- 2.30 To prevent unlawful discrimination, the changes to transitional arrangements will ensure the inconsistency in protection type as the age groups increase is addressed, and all members will be treated equally. This will be done by placing all pre-2012 joiners in the relevant reformed schemes.

Other protected characteristics

- 2.31 The government does not envisage differential impacts resulting from the scope of the proposals on individuals based on any other protected characteristics.

Immediate choice

Overview

- 2.32 Both the options proposed in the consultation document (an immediate choice (IC) and deferred choice underpin (DCU)) are designed to give members the option to choose between accruing the benefits of the legacy or reformed scheme between 2015 and 2022. Under immediate choice, members would be asked to make this decision as soon as practicable after 2022. All eligible members would be treated in the same way and presented with the same choice.
- 2.33 As set out in the consultation document, under immediate choice most members would have to base this decision on assumptions around factors such as future earnings and expected retirement age, which could impact which scheme is ultimately best for individual members. To assist members in making this decision, schemes would provide some information on the different benefits available under each scheme and tools, such as online calculators, to assist members in considering what they might receive under each scheme based on certain different assumptions they choose to input. Ultimately though, these could only be general projections based on particular simplifying assumptions. Members would need to take their own decision as to which scheme best reflects their personal circumstances and priorities.

Age

- 2.34 It is possible that younger scheme members would find it more difficult than older scheme members to determine whether to choose to accrue benefits in the legacy or reformed schemes during the remedy period, and to make a sound, objectively based choice. That is because for members further from retirement, and therefore younger, they would need to make assumptions in relation to events over a longer period than for members nearer to retirement, and so older. It is possible therefore that these younger members

may be more likely to choose a scheme that would ultimately turn out not to be most beneficial to them.

- 2.35 This is inherent in pensions. Younger members will always have to forecast what will happen over a longer time period than older members when making any decisions about their pension arrangements. To assist members in making a decision under immediate choice, schemes would work with member and employer representatives to build products, such as online models and calculators, to assist members in considering what level of benefits they might receive under each scheme based on certain different assumptions they choose to input. Ultimately though, these could only be general projections based on particular simplifying assumptions. Any tools made available to members will be fully accessible to users of assistive technology/software.
- 2.36 The alternative proposal of the DCU mitigates this difficulty to some degree; members would not be making a choice between schemes until the point they retire, and so could base that choice on known benefit entitlements rather than assumptions. However, there are other reasons why the immediate choice may be preferable to DCU, as set out in the consultation document. The government is therefore seeking views on both options and will make its decision following the conclusion of the consultation, and consideration of the responses.

Other protected characteristics

- 2.37 As set out above younger members may also be more likely to be female, or from ethnic minority groups. This means that it is possible that the difficulties for younger scheme members in making long-term assumptions, as described above, may also disproportionately affect women and ethnic minority groups.
- 2.38 The government does not envisage differential impacts resulting from the scope of the proposals on individuals based on any other protected characteristics.

Deferred choice underpin (DCU)

- 2.39 The government does not currently envisage a differential impact on members based on protected characteristics arising from the DCU. Those scheme members who are eligible to pay annual allowance or lifetime allowance tax charges may find they need to take action to review their position in relation to pensions tax under the DCU. This group of high earners are more likely to be male and white. However, as set out in the consultation document, there will be mitigations in place to ensure this group are treated fairly compared to their comparators.
- 2.40 As with all of the proposals covered in the consultation, this will be kept under review as further policy development is conducted following the conclusion of the consultation.

Member contributions

Overview

2.41 As set out in Annex A of the consultation document, some schemes have different contribution rates between the legacy and reformed schemes. This occurs primarily in the police and firefighters' schemes. Where this is the case, individuals will have to make balancing payments, or receive balancing refunds, to ensure they have paid the correct contributions where they switch scheme. The high-level mechanisms for how this will work under both immediate choice and DCU are set out in Annex A of the consultation document. Further detail will be added at scheme level as the policy develops further, as well as during the process of amending scheme regulations (which will include public consultation).

Age

2.42 There is a question as to whether those who are required to make a balancing payment in respect of underpaid contributions, after deciding to move from one scheme to another, should also be charged interest. If they are not charged interest on underpayments it could be argued that they have not had to pay the same level of contributions as their colleagues who were already in that scheme and have not had the benefit of those additional monies over time. For example, in workforces where there are higher contributions in the legacy schemes than in the reformed schemes⁶ older members who originally received transitional protection will have been paying the higher contributions throughout. If younger members decide to move to the legacy scheme but without paying interest on underpaid contributions, it could be said that there would be a difference in treatment between age groups. The government is seeking views on interest payments, including appropriate rates of interest, via the consultation.

2.43 Under IC some members who chose to move scheme would need to make a balancing payment in respect of underpaid contributions for the remedy period, for some these could be relatively large amounts. Under DCU, all eligible members would be moved back to their legacy scheme for the remedy period – which would also entail making balancing payments of underpaid contributions in many cases. Due to the nature of the employee contribution rates in the schemes for police and firefighters, either refunds or additional payments might be due, depending on the relevant legacy scheme. Typically, refunds would be due to members who joined the legacy scheme after 6 April 2006, with additional contributions being due if they joined before this date (because contributions in the reformed schemes are higher than in the 2006 legacy schemes).

2.44 Members who chose reformed scheme benefits (either under IC or DCU) would generally have underpaid contributions (and therefore owe money to the scheme) if they joined the legacy scheme after 6 April 2006, and be due refunds of contributions if they joined before this date (because

⁶ The exception to this is the 2006 legacy pension schemes for firefighters and police officers; where contribution rates are lower than the relevant reformed schemes.

contributions in the pre-2006 legacy schemes are generally higher than in the reformed schemes).

- 2.45 In order to ensure that all members moving back to legacy schemes are able to afford the back-payment of contributions, schemes will agree repayment plans with affected members where necessary, with the aim of ensuring that members can choose their preferred pension benefits, regardless of their financial circumstances. This should avoid or at least mitigate potential disproportionate and unfair impacts on lower paid members, who, in some workforces, are more likely to be women, ethnic minority groups or those with disabilities.

Other protected characteristics

- 2.46 As set out above, younger members may also be more likely to be women or from ethnic minority groups. In both 2012 and 2016, 65% of the public service pension population were female. This has remained constant over 4 years, so the ratio of females to males joining relevant workforces after 2012 is assumed to be consistent with the ratio in the existing workforce. Therefore, those joining some relevant workforces after 1 April 2012 are more likely to be women. Additionally, the proportion of individuals from ethnic minority groups has increased in the public sector between 2012 and 2020 by 2% (10 to 12%). This may suggest that those joining relevant workforces after 1 April 2012 are more likely to be from ethnic minority groups. The proposals may therefore have differential impact by sex and race, just as in relation to younger members.
- 2.47 In addition, as noted above, a requirement to make balancing payments in relation to underpaid contributions may particularly affect lower paid members, who, in some workforces, are more likely to be women, ethnic minority groups or those with disabilities. However, offering different payment options may avoid or mitigate any unfair impacts.
- 2.48 The government does not envisage differential impacts resulting from the scope of the proposals on individuals based on any other protected characteristics, based on analysis of available data.

Future pension provision

Overview

- 2.49 The discrimination identified by the courts was in relation to the transitional arrangements, and not the 2015 reformed schemes themselves. The proposals to address the discrimination set out in the consultation document treat all affected members equally by giving them a choice between schemes for the period between 2015 and 2022 (the remedy period).
- 2.50 The consultation also aims to ensure that all members are treated equally in terms of the design of the schemes in which they will accrue service, after this point and after the discrimination has been remedied. As a result, the government has set out proposals for all those who continue in service to do so as members of their respective 2015 schemes (this is proposed from 1

April 2022), and so be treated equally in this respect, regardless of any protected characteristic.

The 2015 schemes

- 2.51 The government's proposal is that from 1 April 2022 all active members will be members of their respective 2015 schemes. The reasons for the 2015 reforms still stand.
- 2.52 As part of the Hutton Commission's comprehensive review of public service pension schemes,⁷ seven distinct types of scheme design were identified and analysed. Following the analysis, the Commission produced a short list of possible scheme designs. It concluded that a scheme design relating to average earnings over the whole of a member's public service career provided the fairest and most sustainable scheme design.
- 2.53 The 2015 Hutton schemes therefore continue to offer a guaranteed retirement income that it is protected from inflation. However, benefits will be based on the member's earnings for each year of employment, rather than on salary at the point of leaving the scheme (as was traditionally the case with public service pension schemes).
- 2.54 The intention was to address the fairness gap that exists in final salary arrangements between those with flatter career paths and high earners. The Commission found that higher earners tend to benefit disproportionately from the traditional final salary arrangements. The reforms aimed to ensure fairer distribution of benefits across the scheme membership.
- 2.55 Another main driver of the reforms was to ensure public service pension costs are sustainable going forward. The Commission found that a CARE scheme structure offers a fairer balance of risk between the employer and the member. In a final salary arrangement, the salary risk lies with the employer, whereas the salary risk is controlled in the new scheme through the CARE design. The CARE design prevents a sudden increase in earnings at the end of the career from greatly increasing the overall value of pension benefits.
- 2.56 The objectives and validity of the reformed schemes themselves have not changed. The government remains committed to providing appropriate pension provision to all public service workers and ensuring this remains sustainable, and fair to the taxpayer. The 2015 schemes are among the best available in the workplace, and many public service workers are already members of these schemes. From 1 April 2022, anyone continuing in service will do so as a member of their respective 2015 scheme.

General impact

- 2.57 The proposal that all those who continue in service from 1 April 2022 will be a member of their respective reformed scheme will apply to all. Many are

⁷ Hutton Final Report:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/207720/hutton_final_100311.pdf

already members of these schemes, and those who are not will be placed into their respective 2015 scheme from 1 April 2022, regardless of any protected characteristics. From this point on, all members will be in the reformed schemes and will therefore, in that sense, be treated the same.

- 2.58 A CARE structure links the accrual of pension over a member's career to the final benefits paid, which means that member entitlements are calculated on the same basis. The value of benefits will be different for each member because of variable factors such as salary progression, but a consistent scheme structure will apply to all. Members will be treated equally in this sense under the scheme structures, regardless of any protected characteristics.
- 2.59 An Equality Impact Assessment was conducted in relation to the public sector pension reforms in 2015 and the reformed schemes.⁸ The contents of that Equality Impact Assessment are not repeated here, as based on the available evidence, HM Treasury is satisfied that the conclusions still apply.

Sex

- 2.60 From 1 April 2022, the 'remedy cohort' will be moved to the reformed schemes, and thus be treated in the same way, in terms of design of the scheme in which they are members, as all those who have joined since the reforms. The proposals apply regardless of sex. There is a greater proportion of women (65%) in the public service workforce than the wider population (51%), although this varies by pension scheme: for example, the NHS has 78% female members, but the Armed Forces has 10% female members. These proposals will be applied to all public service workers and all schemes in scope of this consultation.
- 2.61 Members moving to the reformed schemes from 1 April 2022 form a subset of the public service pension population referred to below as the 'remedy cohort' (i.e. those in service at the time of the reforms, and who will now be offered the choice of scheme benefits set out in the proposals for consultation, and who opt to accrue service in the legacy scheme up to 1 April 2022, and will therefore move scheme from 1 April 2022 under these proposals). Data on this specific subset of members is not readily available, therefore for the purpose of this analysis, we consider it reasonable to assume that the proportion of men and women in the 'remedy cohort' will be broadly consistent with the proportion in public service pension schemes more widely with 65% female and 35% male as Table 1 in Annex A shows. For some schemes this proportion is different as we know the Armed forces is predominately male (90% male members) so the 'remedy cohort' may be different from the proportions for the whole public service pension workforce for specific schemes. However as with analysis of the proposals covered in the consultation, the use of this data will be kept under review as further policy development is conducted following the conclusion of the consultation. The government welcomes the views of consultees.
- 2.62 A CARE scheme structure such as that used in the reformed schemes may offer relatively fairer outcomes to women who have tended to experience

⁸ <https://www.parliament.uk/documents/impact-assessments/IA12-024.pdf>

lower salary progression. As set out in the assessment of the 2015 reforms themselves, a CARE scheme structure is likely to benefit those with lower salary growth more than higher earners.⁹ A larger proportion of males currently reach higher salary bands than females across the public service pension schemes, therefore men are likely to receive relatively less under a CARE scheme structure. Whereas the salary progression of women means this group is likely to benefit more from the new scheme design than is currently the case.

Age

- 2.63 The proposals to address the discrimination treat all those in the remedy cohort equally, regardless of age. All will be offered a choice of scheme benefits for the remedy period. From 1 April 2022, all those who continue in service will do so as members of the reformed schemes, and thus there will be no disparity between those who are in the remedy cohort, and those who are not in scope, and who are already in reformed schemes. Therefore, all members in the remedy cohort will be treated equally in this sense, regardless of age.
- 2.64 Those who will ‘move’ into reformed schemes on 1 April 2022 will broadly fall into two cohorts. The first will be those who were originally given the right to remain in legacy schemes (transitionally protected) and choose to continue as members of those schemes for the remedy period; and the second will be those who (through the proposals set out to address the discrimination) make the choice to receive legacy scheme benefits for the remedy period. Whilst the precise make up of these cohorts is not known, they are both likely to be generally older within the body of scheme members. For example, transitional protection was provided to those who were within 10 years of their NPA; and those who will also be offered a choice of benefits as a result of the remedy proposals were in service at the time of the reforms, and thus likely to be generally older than those who have joined since
- 2.65 However:
- a) all those in service at the time of the reforms will be treated equally during the remedy period, as a result of the remedy proposals; and
 - b) everyone who continues in service from 1 April 2022 will be treated equally in as far as they will all accrue any service beyond that point as members of the reformed schemes.
- 2.66 From 1 April 2022, when all those who continue in service will be members of reformed schemes, older members who had been offered transitional protection will have had more than 20 months notice of the government’s plans and will be able to participate in the reformed schemes in relation to any eligible employment from 1 April 2022 onwards, beyond their legacy scheme Normal Pension Age (by 1 April 2022, all members who were offered transitional protection in 2012 will have reached their Normal Pension Age). As set out in the consultation, it was never the intention of the government that the legacy schemes would continue for a long period of time. Parliament passed legislation such that that no benefits would be

⁹ <https://www.parliament.uk/documents/impact-assessments/IA12-024.pdf>

provided under the legacy schemes in relation to employment after 1 April 2015 but allowed for exceptions to be made that were short term in their nature, applying only to members who were within 10 years of their Normal Pension Age under the legacy schemes. The majority of these members are expected to have retired already, or to do so in the coming years.

- 2.67 These exceptions gave rise to unlawful discrimination and the consultation sets out proposals to address that. These members will also have reached their NPA at this point. If they choose to continue in service, they can do so as members of the reformed schemes, in the same way as all other members.
- 2.68 The impact on protected characteristics if this group were to be treated differently and permitted to continue as members of legacy schemes has been considered. This would discriminate against those who would not be offered that choice, and who are likely to be younger. Such age discrimination is unlikely to be justified. Whilst the distinction will not directly be based on age (as in the case of the transitional protection arrangements that were found to be discriminatory by the courts), this group is likely to be generally older than those who have joined since the 2015 reforms, have only ever been members of the 2015 schemes, and will continue as such. Treating this group differently could at the very least lead to indirect discrimination (on the grounds of age, but potentially other characteristics); and there is no compelling policy justification for doing so, particularly given the aim of the future proposals are for all members to be treated equally.

Other protected characteristics

- 2.69 The proposals apply to all members, regardless of race, disability, marital status, or any other protected characteristic.
- 2.70 The analysis of data in Table 5 and 6 of Annex A shows that representation of ethnic minority groups and those with disabilities is broadly similar in the public sector workforce as the wider working population. The proposals will apply regardless of race, and whilst there will be differences by scheme, they will also apply to all the schemes in scope of this consultation.
- 2.71 As set out above, overall, a CARE scheme structure may offer relatively fairer outcomes to ethnic minority groups and those with disabilities who, like women, in some public sector workforces tend to experience lower salary progression.
- 2.72 The data also shows that most religions are underrepresented in the public sector workforce relative to the UK working population. Graph 2 in Annex A shows that those identifying as Christian or no religion are overrepresented in the public sector workforce relative to the UK population. Whereas the other religions are underrepresented in the public sector workforce relative to the UK working population. Some schemes may have higher proportions of members in specific religions than the public sector workforce such like the NHS who have a higher proportion of people who are Hindu (2.15%) and Sikh (1.02%).
- 2.73 In any case, the proposals will apply to all members regardless of any of these characteristics and the government does not envisage a differential

impact of moving all members into 2015 Hutton schemes on persons based on their age, sex, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sexual orientation, marital/civil partnership status, or any protected characteristic.

Annex A

Public Service workforce data

Method

- A.1 This Annex contains further detail on the data used throughout this impact assessment. The analysis of the data relative to the proposals can be found in Chapter 2.
- A.2 The high-level impact of the proposals under consultation on public service workers has been considered by reference to a combination of sources; the 2020 Q1 Labour Force Survey (LFS), the Annual Population Survey (APS), and data provided by the public service pension schemes:
- From the LFS the public service workforce population can be broken down by age, sex, ethnicity, marital status and disability. The LFS does not record if the individual is a member of a pension scheme, so it is not possible to identify those directly affected by the proposals under consultation.
 - From the APS the working population and public sector workforce population can be broken down by religion. The APS does not record if an individual is a member of a pension scheme, so as with the LFS it is not possible to identify those directly affected by the policy proposals under consultation.
 - From public service pension scheme data, the membership of public service pension schemes can be broken down by age and sex. This data was compared to the LFS and APS to see the variation between public service pension data and public sector workforce data. The pension scheme data used was provided for NHS (England and Wales), Teachers (England and Wales), Police (England and Wales), Fire (England), Civil service (Great Britain) and Armed Forces (UK). It is based on the public service pension schemes 2016 actuarial valuation data and considers the active membership as at 31 March 2016. This data excludes the Scotland pension schemes as data was not provided for them, despite being in scope of this consultation. Data for the Local Government and Judicial pension schemes is also excluded as these schemes will be consulting separately, however the data available is assumed to be reflective of those missing schemes.¹

¹ Local Government, Judicial, Fire (Wales) and Scotland pension schemes

A.3 The affected population of this consultation are members of the public service pension schemes.² Data for age and sex covers the public sector pension population, for the other protected characteristics data for the whole of the public sector workforce has been used, regardless of whether they are enrolled in a pension scheme. This is because scheme specific data is not readily available for the Government Actuary's Department (GAD) to provide a summary for other protected characteristics. The data for the two populations (public sector workforce, and public service active membership) is broadly similar, and 89% of public sector employees were members of a workplace pension scheme in 2019.³ It is therefore reasonable to use the LFS and APS for the analysis of the other protected characteristics, rather than commissioning a data gathering exercise. Further limitations of this data are explored in A.28.

High-level equality impact on groups

Sex

A.4 A greater proportion of public sector employees are female, relative to the working population as shown in Table 1. There are also more female members across the public service pension schemes than men, with broadly similar percentages to the public sector population.

Table 1: Sex demographics (scheme data compared to working and public sector)

Sex	Working population	Public sector population	Public service pension population
Male	49%	34%	35%
Female	51%	66%	65%

Source: LFS Q1 2020

A.5 The proportions of male and female members in individual public service pension schemes differ from the proportions in the overall public service pension population in 2016. The Firefighter's, Police and Armed Forces pension schemes are heavily male dominant with proportions above 70%, whereas the NHS and Teachers pension scheme are heavily female dominant. However, the whole public service pension population is more female than male (65% to 35%). This is because the NHS and Teachers pension scheme members (excluding the Local Government pension schemes) represent 73%⁴ of the public service pension population in 2016, and as shown in Table 2, these are female dominant workforces. In other schemes, such as the civil service pension scheme, there is a more even split between male and female members (Table 2 shows 47% are male and 53% are female members in the civil service pension scheme).

² Members of the Armed Forces, Firefighter's, NHS, Police, Civil Service and Teachers pension schemes

³ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/workplacepensions/bulletins/annualsurveyofhoursandearnings/pensiontables/2019provisionaland2018finalresults>

⁴ Annex B Table 1

Table 2: Sex proportion for each public service pension scheme

Sex	Civil service	Armed Forces	Firefighters	Police	Teachers	NHS
Male	47%	90%	95%	70%	29%	22%
Female	53%	10%	5%	30%	71%	78%

Source: Public service pension scheme data

Age

A.6 As shown in Table 3, those aged 25 to 64 are over-represented by the public service pension population compared to the working population. Those aged 24 and below and over 65 are under-represented in the public service pension population relative to the working population. For example: 40% of members in the civil service pension scheme in 2016 were aged between 35 to 49, over 40% were over the age of 50 and around 20% fall below the age of 34.

Scheme specific members

A.7 Annex B shows the age breakdown for each pension scheme. This data shows that although the proportions are not identical to those for the whole public service pension population (in Table 3), they are broadly similar.

A.8 There are several factors which influence when members join and leave pension schemes, one of which is that the Normal Pension Age (NPA) varies per scheme; this influences the level of older people in each workforce. The Armed Forces and Police pension schemes have an NPA of 60 years so therefore have a lower proportion of older members with 15% or less of membership above the age of 50. For other workforces, around 30% of the workforce is above the age of 50.

A.9 The proportion of members aged 25-49 in all schemes was greater than or equal to the working population.

Table 3: Total membership by age (scheme data compared to population)

Age	Working population	Public Service Pensions Population
16 – 17	1%	0%
18 – 24	11%	5%
25 – 34	23%	24%
35 – 49	33%	41%
50 – 64	28%	30%
65 plus	4%	1%

Source: LFS Q1 2020 and Public service pension scheme data

Unprotected members

- A.10 Table 4 shows active membership in public service pension schemes and breaks down the public service pension scheme population into specific protected types. The highest proportion are those who are unprotected at 75%.
- A.11 Unprotected members are members who were either treated as “transition members” and moved to the career average arrangement on 1 April 2015 or members that joined the Pension Scheme after 1 April 2015 and entered the career average arrangement.

Tapered members

- A.12 Tapered protected members are members that were between 10 and 13.5 years or 14 years of their NPA at 1 April 2012. These members remain in the final salary arrangement until a later date, their transition date, and then they will move to the career average arrangement. If they have a break in pensionable service of more than 5 years before their transition date, they will move into the career average arrangement on returning to service. The transition dates are individual to each tapered member and depend on their age and final salary arrangements.
- A.13 Tapered members represent 8% of the public service pension scheme active membership and include both those that have already moved into the reformed scheme at their taper date, as well as those who will taper into the new schemes.

Protected members

- A.14 A protected member is one who was both an active member and within 10 years of NPA on 1 April 2012. These members remain in the final salary arrangement, provided they do not have a subsequent continuous break in pensionable service of more than 5 years, until they take their pension entitlement in full.

Table 4: Total active membership by protection type

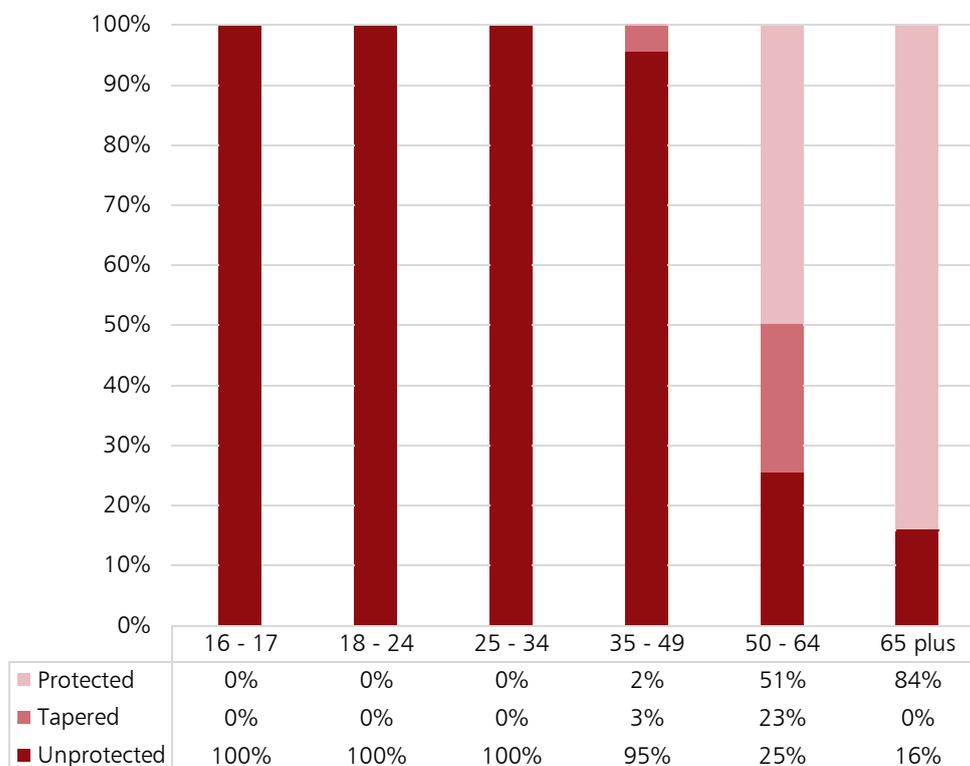
Protection type	Total active membership (headcount 000s)	Total active membership (%)
Unprotected	2,255	75%
Tapered	245	8%
Protected	499	17%
Total	3,000	100%

Source: *Public service pension scheme data*

- A.15 Table 4 shows that there are 245,000 tapered members and that the youngest lies between 35 to 49 years of age. In 2016, 3% of 35 to 49 year olds and 23% of 50 to 64 year olds were eligible for tapered protection, as they would have been within 10 and 13.5 years or 14 years of their NPA on 1 April 2012.

A.16 Graph 1 shows the breakdown of total membership by age into protected types. Those aged 16 to 34 are all unprotected meaning they are either transitional members or new members of the post-2015 schemes, whereas 84% of those over 65 years old were protected. This is discussed in more detail in Chapter 2.

Graph 1: Total membership by age (scheme data broken down into protected types)



Source: Public service pension scheme data

Ethnicity, religion, disability and marital status

A.17 There is limited membership data available for public service pension schemes on ethnicity, religion, disability and marital status as the LFS has no information on pension membership and the Government Actuary's Department (GAD) do not hold complete or up to date data on these characteristics.

A.18 The Labour Force Survey does however break down results to public sector level, which, as explored in A.2, is used as a proxy for public service pensions scheme members for ethnicity and disability. For religion, data from the APS has been used as a proxy for the public service pension scheme members as it also can be broken down to public sector level.

- A.19 The government holds ethnicity data for public sector employers including NHS,⁵ Fire,⁶ Police,⁷ Teacher's,⁸ Armed Forces⁹ and Civil Service.¹⁰ The data shows that there are quite pronounced demographic differences in the workforce profiles of each of these employers by ethnicity explored below:
- Fire: In 2019, for those whose ethnicity was known 95.7% of firefighters were white compared to 85.1% of working age population who were white.
 - Police: At the end of March 2019, 93.1% of police officers were from the white ethnic group and 6.9% were from other ethnic groups.
 - NHS: For those whose ethnicity was known, 4 out of 5 (79.2%) were white (including White ethnic minorities), and 1 in 5 (20.7%) were from all other ethnic groups. There was a higher percentage of staff in medical roles (working as doctors in hospitals and community health services) from the Asian, Chinese, Mixed and Other ethnic groups than in non-medical roles.
 - Armed forces: In October 2018, people from ethnic minorities (not including white minorities) made up 2.5% of officers in the UK regular armed forces, compared with 2.4% in April 2012. For ranks below officer, 8.8% of all armed forces personnel were from ethnic minorities, compared with 7.9% in April 2012.
 - Civil service: In March 2019, there were broadly the same level of representation of ethnic minority groups as the UK population.
- A.20 Although there is no available data on religion, ethnicity, disability and marital status data at a pension scheme level; the government recognises the need to continually monitor the ethnic, disability and marital status of public service workforces and the relationship with scheme memberships. It also acknowledges the importance of using new intelligence obtained to inform these reviews and the development of pension policies. The use of this data will be kept under review as further policy development is conducted following the conclusion of the consultation. The government welcomes views from consultees for all proposals in this assessment.
- A.21 Table 5 indicates that the breakdown of ethnicity within the public sector workforce is broadly consistent with the UK population. This is assumed to be the same within the public service pension schemes. Black/African/Caribbean people are overrepresented in the public sector workforce relative to the UK population by a small proportion.
- A.22 Those categorised as white (excluding white minorities) represent 88% of the public sector workforce. Therefore, the public service pension schemes are

⁵ <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/nhs-workforce/latest>

⁶ <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/fire-and-rescue-services-workforce/latest>

⁷ <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/police-workforce/latest>

⁸ <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/school-teacher-workforce/latest>

⁹ <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/armed-forces-workforce/latest>

¹⁰ <https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/civil-service-workforce/latest>

assumed to have a similar proportion of active members categorised as white (excluding white minorities).

Table 5: Total and public sector population by ethnicity

Ethnicity	Working population	Public sector population
White (excluding white minorities)	88%	88%
Mixed	1%	1%
Indian	3%	2%
Pakistani	2%	1%
Bangladeshi	1%	1%
Chinese	0%	0%
Black/African/Caribbean	3%	4%
Other ethnic groups	3%	3%

Source: LFS Q1 2020

A.23 Table 6 shows the distribution of those with disabilities as defined under the Equality Act 2010. It suggests that individuals with disabilities are overrepresented in the public sector.

Table 6: Total and public sector population by disability

Disability	Working population	Public sector population
Equality act disabled	14%	16%
Not equality act disabled	86%	84%

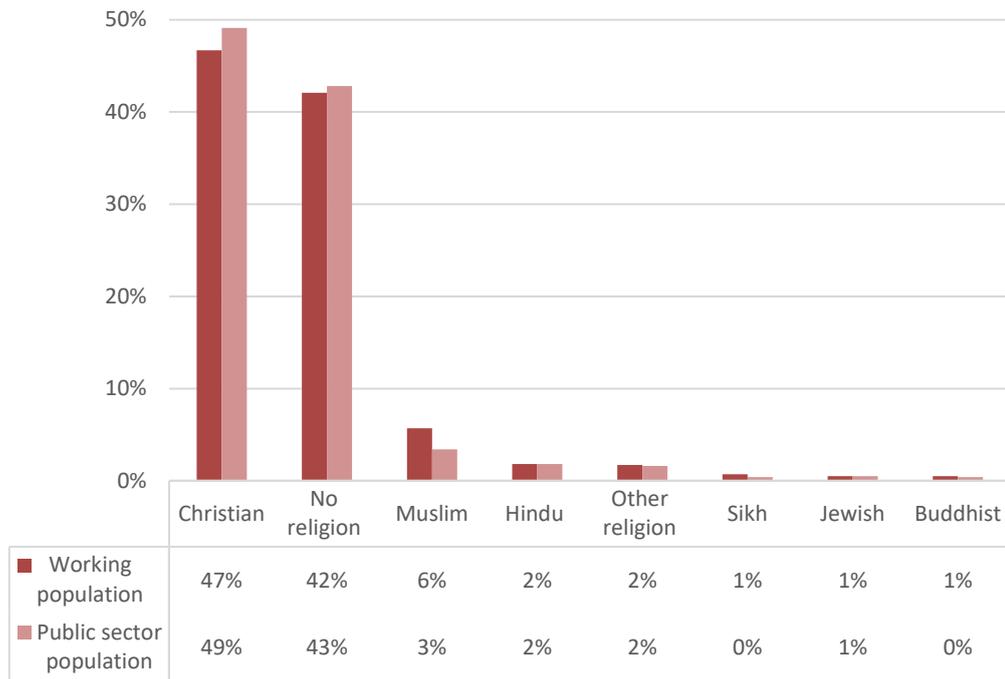
Source: LFS Q1 2020

A.24 Graph 2 shows the breakdown of religion in the public sector workforce compared to the total working population. This shows that those identifying as Christian or no religion are overrepresented in the public sector relative to the UK population. The other religions are underrepresented in the public sector relative to the UK population.¹¹ Publicly funded systems like the NHS have a higher proportion of people who are Hindu (2.15%) and Sikh (1.02%) than the public sector more generally.¹² However, this data is not specific to the NHS pension scheme as it is based on the NHS workforce.

¹¹ Muslim, Hindu, Sikh, Jewish, Buddhist and other religions

¹² <https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/how-we-support-diversity-and-inclusion/our-workforce-demographics-2019/religion>

Graph 2: Total and public sector population by religion



Source: APS 2019

A.25 Table 7 shows that people who are married, cohabiting or in a civil partnership are overrepresented in the public sector. On the contrary, those who are not married are underrepresented in the public sector compared to the working population.

Table 7: Total and public sector population by marital status

Marital status	Working population	Public sector population
Married, cohabiting or in a civil partnership	56%	64%
Not married	44%	34%

Source: LFS Q1 2020

A.26 Data on sexual orientation, gender reassignment, pregnancy and maternity (other groups covered by the Equality Act 2010) is not available.

Limitations

A.27 Table 8 shows the data collected and used for comparison with public sector data and the public service pension population. It must be noted that all data (including the pension scheme data)¹³ is from a specific snapshot in

¹³ Pension scheme data from the 2016 valuation reports has been provided by GAD; therefore, the data is based on membership in 2016 so the membership profile may change over time. This is the most up to date pension data schemes hold at the time of analysis, as valuation reports take place every 4 years.

time. This is not the point in time at which these policies apply; however, for the purposes of this analysis it is assumed that the percentages calculated here will be the same for the basis of our equality analysis.

A.28 The Labour Force Survey is the largest regular household survey in the UK. The survey covers people resident in private households, National Health Service (NHS) accommodation and student halls of residence. However, it does not cover any other communal establishments. A nationally representative sample of approximately 100,000 people aged 16 and over in around 40,000 households are interviewed for the LFS. The survey may pose some limitations to this analysis as explored below:

- Individuals who answered “I don’t know” to whether they are economically active or inactive have been excluded. The individuals excluded represent 4% of the LFS.
- Those who are economically inactive (20% of the LFS) have also been excluded; these individuals are assumed not to be working; this analysis compares the public sector workforce data to data for the working population.
- Data from the LFS for the working population on sex, ethnicity, age, marital status and disability are based on the proportion of individuals who are economically active. These individuals are aged 16 and over and are either in employment or unemployed. The unemployed in this instance are defined as those aged 16 and over, who are without work but have actively sought work in the last 4 weeks and are available to start work in the next 2 weeks.
- Additionally, as the LFS is survey data, it provides estimates of population characteristics rather than exact figures. Confidence intervals are used to present the sampling variability. For the LFS the confidence interval is 95%, so it is expected that in 95% of the survey samples, the resulting confidence interval will contain the true value of surveying the whole population.

A.29 The Annual Population Survey is compiled from interviews for the Labour Force Survey along with additional regional samples. The APS comprises the main variables from the LFS, with a much larger sample size. Consequently, the APS supports more detailed breakdowns than can be reliably produced from the LFS. This survey has been used for religion, and to check consistency across the other protected characteristics – the limitations of which have been explored below:

- Data for religion is based on the APS for England and Wales, this also includes those who are economically inactive, i.e. those without a job who have not actively sought work in the last four weeks, and/or are not available to start work in the next two weeks. This means the same populations are not being compared between characteristics, as these percentages include the 20% of the population who are economically inactive.
- However, when comparing the APS to the LFS proxy for the public sector there is little dispersion. For example, 0.4% of the public sector identifies as

Jewish compared to 0.5% of the England and Wales population. These percentages are therefore considered robust enough to use as proxies in this analysis. This will be subject to further monitoring and evaluation.

A.30 As shown in the Table 8, data for religion and marital status is based on the England and Wales population. However, data from the 2011 census and Northern Ireland's and Scotland's respective datasets is available for religion and marital status as footnoted on page 30. This has been used to verify the accuracy of using the England and Wales data to base this analysis.

A.31 This equality analysis is based on available data but there are some limitations to the scheme data we have used throughout this document. These include:

- A considerable proportion of active members who are not in the public sector workforce, as strictly defined, but are included in the scheme data. These include NHS practitioners such as GPs, GP practice staff, teachers in Further and Higher Education and independent schools and staff employed by private sector contractors and admitted to public service pension schemes under the new Fair Deal. These might represent around 10% of the total public service pension scheme active membership in the data we have used.
- The public sector workforce data includes those in local government and the wider public sector who are not covered by the pension schemes within this consultation.

A.32 The use of this data will be kept under review as further policy development is conducted following the conclusion of the consultation.

Table 8: Data used for the working population:

Protected characteristic	Data collected	Data style	Country
Sex	Male: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/mgsa/lms Female: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/mgsb/lms	LFS 2020 Q1	UK
Ethnicity	https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusbyethnicgroupa09	LFS 2020 Q1	UK
Age	https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/employmentunemploymentandeconomicinactivitybyagegroupnotseasonallyadjusteda05nsa	LFS 2020 Q1	UK
Religion	https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/religion/datasets/religioneducationandworkinenglandandwales	APS 2019	England and Wales ¹
Marital status	https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesbymaritalstatusandlivingarrangements	LFS 2020 Q1	England and Wales ²
Disability	https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusofdisabledpeoplea08	LFS 2020 Q1	UK
Sexual orientation	Data unavailable		
Gender reassignment	Data unavailable		
Pregnancy and maternity	Data unavailable		

¹ Data for religion for NI: <https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/2011-census-results-key-statistics-northern-ireland-report-11-december-2012.pdf> page 19 and Scotland: <https://www.scotlandscensus.gov.uk/ods-analyser/jsf/tableView/tableView.xhtml>

² Data for marital status for NI: <https://www.nisra.gov.uk/publications/registrars-general-annual-report-2018-marriages> and Scotland: <https://www.scotlandscensus.gov.uk/ods-analyser/jsf/tableView/tableView.xhtml>

Annex B

Scheme specific data

Table 1: Membership in public service pension schemes 2016:

	Armed forces	Civil service	NHS	Police	Teachers	Firefighters	Total
Membership (000s)	195.7	464.002	1,460	120.673	727	32.985	3,000
Proportion	7%	15%	49%	4%	24%	1%	100%

Source: Scheme specific data (Number of members as at 31 March 2016)

Table 2: Civil service pension scheme data broken down by age and protective status:

Age	Unprotected	Tapered	Protected	Total
16 – 17	100%	0%	0%	0%
18 – 24	100%	0%	0%	3%
25 – 34	100%	0%	0%	16%
35 – 49	100%	0%	0%	40%
50 – 64	17%	30%	53%	40%
65 plus	4%	0%	96%	2%

Source: Civil service (GB) pension scheme data

Table 3: NHS pension scheme data broken down by age and protective status:

Age	Unprotected	Tapered	Protected	Total
16 – 17	100%	0%	0%	0%
18 – 24	100%	0%	0%	5%
25 – 34	100%	0%	0%	22%
35 – 49	96%	3%	1%	40%
50 – 64	28%	21%	51%	32%
65 plus	15%	0%	85%	1%

Source: NHS (England and Wales) pension scheme data

Table 4: Teachers' pension scheme data broken down by age and protective status:

Age	Unprotected	Tapered	Protected	Total
16 – 17	100%	0%	0%	0%
18 – 24	100%	0%	0%	3%
25 – 34	100%	0%	0%	27%
35 – 49	100%	0%	0%	42%
50 – 64	28%	26%	45%	26%
65 plus	29%	0%	71%	1%

Source: Teachers' (England and Wales) pension scheme data

Table 5: Police pension scheme data broken down by age and protective status:

Age	Unprotected	Tapered	Protected	Total
16 – 17	0%	0%	0%	0%
18 – 24	100%	0%	0%	2%
25 – 34	100%	0%	0%	24%
35 – 49	61%	21%	18%	59%
50 – 64	1%	0%	99%	15%
65 plus	0%	0%	100%	0%

Source: Police (England and Wales) pension scheme data

Table 6: Firefighters pension scheme data broken down by age and protective status:

Age	Unprotected	Tapered	Protected	Total
16 – 17	0%	0%	0%	0%
18 – 24	100%	0%	0%	2%
25 – 34	100%	0%	0%	20%
35 – 49	72%	25%	4%	57%
50 – 64	10%	9%	81%	21%
65 plus	29%	0%	71%	0%

Source: Firefighters (England) pension scheme data

Table 7: Armed Forces pension scheme data broken down by age and protective status:

Age	Unprotected	Tapered	Protected	Total
16 – 17	100%	0%	0%	0%
18 – 24	100%	0%	0%	20%
25 – 34	100%	0%	0%	41%
35 – 49	99%	0%	1%	32%
50 – 64	44%	0%	56%	7%
65 plus	67%	0%	33%	0%

Source: Armed forces (UK) pension scheme data